

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1214

AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 32-31-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1.5. As used in this chapter, "storage facility" means any location approved by a court for storage of a tenant's personal property under section 2(e) of this chapter.**

SECTION 2. IC 32-31-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 2. (a) A landlord has no liability for loss or damage to a tenant's personal property if the tenant's personal property has been abandoned by the tenant.**

(b) For purposes of this section, a tenant's personal property is considered abandoned if a reasonable person would conclude that the tenant has vacated the premises and has surrendered possession of the personal property.

(c) An oral or a written rental agreement may not define abandonment differently than is provided in subsection (b).

(d) If a landlord is awarded possession of a dwelling unit by a court under IC 32-30-2, the landlord may seek an order from the court allowing removal of a tenant's personal property.

~~(b)~~ **(e) If the tenant fails to remove the tenant's personal property before the date specified in the court's order issued under subsection (a), (d), the landlord may remove the tenant's personal property in accordance with the order and deliver the personal property to a**

C
o
p
y

HEA 1214+



warehouseman under section 3 of this chapter **or to a storage facility approved by the court.**

SECTION 3. IC 32-31-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) If a tenant has failed to remove the tenant's personal property under section 2 of this chapter, a landlord may deliver the personal property to a warehouseman **or to a storage facility** if notice of both of the following has been personally served on the tenant at the last known address of the tenant:

- (1) An order for removal of personal property issued under section 2 of this chapter.
- (2) The identity and location of the warehouseman **or the storage facility.**

(b) At the demand of the owner of the exempt property, the warehouseman **or storage facility** shall release the exempt property to the owner without requiring payment from the owner at the time of delivery.

(c) A waiver of the provisions of section 1 of this chapter or subsection (b) by contract or otherwise is void.

SECTION 4. IC 32-31-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A warehouseman **or storage facility** that receives property under this chapter holds a lien on all of that property that is not exempt property to the extent of the expenses for any of the following incurred by the warehouseman **or storage facility** with respect to all of the property, whether exempt or not exempt:

- (1) Storage.
- (2) Transportation.
- (3) Insurance.
- (4) Labor.
- (5) Present or future charges related to the property.
- (6) Expenses necessary for preservation of the property.
- (7) Expenses reasonably incurred in the lawful sale of the property.

(b) A tenant may claim the tenant's property at any time until the sale of the property under section 5 of this chapter by paying the warehouseman **or storage facility** the expenses described in this section.

SECTION 5. IC 32-31-4-5, AS AMENDED BY SEA 419-2007, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. If a tenant does not claim the tenant's property within ninety (90) days after receiving notice under section 3 of this

C
o
p
y



chapter, a warehouseman **or storage facility** may sell the property received under this chapter under IC 26-1-7-210(b).

SECTION 6. IC 32-31-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) This section does not apply if the dwelling unit has been abandoned.

(b) For purposes of this section, a dwelling unit is considered abandoned if:

- (1) the tenants have failed to:
 - (A) pay; or
 - (B) offer to pay;
 rent due under the rental agreement; and
- (2) the circumstances are such that a reasonable person would conclude that the tenants have surrendered possession of the dwelling unit.

An oral or written rental agreement may not define abandonment differently than is provided by this subsection.

(c) Except as authorized by judicial order, a landlord may not deny or interfere with a tenant's access to or possession of the tenant's dwelling unit by commission of any act, including the following:

- (1) Changing the locks or adding a device to exclude the tenant from the dwelling unit.
- (2) Removing the doors, windows, fixtures, or appliances from the dwelling unit.
- (3) Interrupting, reducing, shutting off, or causing termination of any of the following to a tenant:
 - (A) Electricity.
 - (B) Gas.
 - (C) Water.
 - (D) Other essential services.

However, the landlord may interrupt, shut off, or terminate service as the result of an emergency, good faith repairs, or necessary construction. This subdivision does not require a landlord to pay for services described in this subdivision if the landlord has not agreed, by an oral or written rental agreement, to do so.

(d) A tenant may not interrupt, reduce, shut off, or cause termination of:

- (1) electricity;
- (2) gas;
- (3) water; or
- (4) other essential services;

to the dwelling unit if the interruption, reduction, shutting off, or

C
O
P
Y



termination of the service will result in serious damage to the rental unit.

(e) A tenant may not unreasonably withhold consent to the tenant's landlord to enter the tenant's dwelling unit in order to:

- (1) inspect the dwelling unit;**
- (2) make necessary or agreed to:**
 - (A) repairs;**
 - (B) decorations;**
 - (C) alterations; or**
 - (D) improvements;**
- (3) supply necessary or agreed to services; or**
- (4) exhibit the dwelling unit to prospective or actual:**
 - (A) purchasers;**
 - (B) mortgagees;**
 - (C) tenants;**
 - (D) workers; or**
 - (E) contractors.**

(f) A landlord may enter the dwelling unit:

- (1) without notice to the tenant in the case of an emergency that threatens the safety of the occupants or the landlord's property; and**
- (2) without the consent of the tenant:**
 - (A) under a court order; or**
 - (B) if the tenant has abandoned or surrendered the dwelling unit.**

(g) A landlord:

- (1) shall not abuse the right of entry or use a right of entry to harass a tenant;**
- (2) shall give a tenant reasonable written or oral notice of the landlord's intent to enter the dwelling unit; and**
- (3) may enter a tenant's dwelling unit only at reasonable times.**

**C
o
p
y**



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

**C
o
p
y**

HEA 1214+

